

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

TASER INTERNATIONAL, INC., <i>et al.</i> ,)	
)	
Plaintiffs,)	Case No.: 1:10-CV-03108-JEC
)	
v.)	[On removal from the State
)	Court of Fulton County,
)	Georgia Case No.:
MORGAN STANLEY & CO., INC., <i>et al.</i> ,)	2008-EV-004739-B]
)	
Defendants.)	
)	
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PLAINTIFFS' MOTION FOR LEAVE TO FILE A SUR-REPLY

AND

**MOTION TO STRIKE THE NEW REPLY DECLARATIONS
OF BRAD M. ELIAS AND PETER MELZ**

Plaintiffs are filing contemporaneously herewith (and under seal) their Opposition to ML Pro's Motion to Exceed Page Limitations and, Alternatively, Motion for Leave to File a Sur-Reply and Plaintiffs' Objection to the Consideration of, or Motion to Strike, the New Reply Declarations of Brad M. Elias and Peter Melz ("Plaintiffs' Opposition and Objection"). Plaintiffs' Opposition and Objection is provided in response to Docket # 157 (Defendant Merrill Lynch Professional Clearing Corp.'s Motion for Permission to Exceed Page Limitations in Its Reply Memorandum in Support of Its Motion to Dismiss

for Lack of Personal Jurisdiction (and Memorandum in Support)), and also relates to Docket # 59 (Defendant Merrill Lynch Professional Clearing Corp.'s Motion to Dismiss for Lack of Personal Jurisdiction or, in the Alternative, to Transfer Under 28 U.S.C. § 1406(a)).

Because Plaintiffs' Opposition and Objection contain, as alternative relief, a Motion for Leave to File a Sur-Reply in further opposition to ML Pro's Motion to Dismiss and a Motion to Strike the New Reply Declarations of Brad M. Elias and Peter Melz, Plaintiffs hereby file, pursuant to the Local Rules of the Northern District of Georgia, a motion to alert the Court of the alternative relief requested.

Plaintiffs respectfully request, for the reasons stated in the memorandum of law in Plaintiffs' Opposition and Objection, that (1) if the Court grants ML Pro's Motion to Exceed Page Limitations, that the Court grant Plaintiffs' Motion for Leave to File a Sur-Reply (which Sur-Reply is attached to Plaintiffs' Opposition and Objection); and (2) that the Court strike the new reply declarations of Brad M. Elias and Peter Melz if it decides that a motion, as opposed to an objection to that new evidence, is required.

Respectfully submitted, this 28th day of January, 2011.

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CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1D of the Local Rules for the District Court for the Northern District of Georgia, I hereby certify that the foregoing pleading has been prepared in Times New Roman, 14 point font, as permitted by Local Rule 5.1B.

Respectfully submitted this 28th day of January, 2011.

Nicole G. Iannarone

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Georgia Bar No. 382510

CERTIFICATE OF SERVICE

I hereby certify that on this day, a true and correct copy of the within and foregoing **PLAINTIFFS' MOTION FOR LEAVE TO FILE A SUR-REPLY AND MOTION TO STRIKE THE NEW REPLY DECLARATIONS OF BRAD M. ELIAS AND PETER MELZ** was electronically filed with the Clerk of Court using the Court's electronic filing system which will automatically send an email notification of such filing to the following attorneys of record who are registered participants in the Court's electronic notice and filing system:

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Further, I hereby certify that on this day, I caused to be served a true and correct copy of the foregoing by United States mail on:

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This 28th day of January, 2011.

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